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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,887	11/20/2000	Scott E. Woodard		1080

7590 11/29/2004

Jeffrey P Calfa
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Naperville, IL 60565

EXAMINER

COLON, CATHERINE M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/716,887

Applicant(s)

WOODARD ET AL.

Examiner

C. Michelle Colon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- SW 4) ☒ Claim(s) 12-28 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- SW 5) ☒ Claim(s) 29 is/are allowed.
- 6) ☒ Claim(s) 12-28 and 30-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the communication received on September 6, 2004. Claims 1-11 have been cancelled. Claims 21 and 29 have been amended. Claims 12-33 are now pending in this application.

Response to Amendment

2. Applicant's amendments to claims 21 and 29 are acknowledged.

Declaration Under 37 CFR 1.131

3. The declarations filed on September 6, 2004 under 37 CFR 1.131 are sufficient to overcome the Broerman reference.

Response to Arguments

4. Applicant's arguments are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12-28 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conmy et al. (U.S. 6,101,480) and Bisdikian et al. (U.S. 5,974,406).

As per claim 12, Conmy et al. discloses a data management system for scheduling the showing of a real estate property for the purpose of facilitating a real estate property transaction involving a buyer, a seller and a seller's agent, comprising:

a computer useable medium having computer readable program means embodied in said medium for causing the recording of property unavailable times periods where the seller has selected a real estate property to be unavailable (col. 4, lines 56-67; col. 5, lines 45-54; col. 6, lines 29-33 and 55-65; The system can record information relating to the availability of people as well as other resources such as rooms.);

computer readable program means for causing the recording of seller's agent unavailable time periods upon entry by seller's agent (col. 4, lines 56-67; col. 5, lines 45-54; col. 6, lines 29-33 and 55-65; The system can record information relating to the availability of people as well as other resources such as rooms.);

computer readable program means for causing the comparing of the property unavailable time periods with the seller's agent unavailable time periods and marking the periods neither the property nor the seller's agent is unavailable as property available time periods (col. 8, lines 17-23 and 31-33; The system can display the various types of times for users including busy and free times.);

computer readable program means for causing the display of information identifying the property, said information including the property available time periods (col. 8, lines 17-23 and 31-33; The system can display the various types of times for users including busy and free times.);

computer readable program means for causing in response to a buyer's selection of a desired time period for a showing of the property from the time periods marked as property available time periods, the sending of a message to seller's agent indicating the desired time period with a designation of a confirmation mode (col. 9, lines 11-34 and 49-55; A meeting coordinator can email invites to other users for a meeting including a particular time, date and location.); and

computer readable program means for causing the directing of a confirmation of showing communication be sent to buyer, the marking of the property as unavailable for the desired time period, and the marking of sellers agent's schedule as seller's agent unavailable due to showing (col. 9, lines 23-34; Users can accept or decline a meeting invitation from a meeting coordinator. If all the users accept the invitation, the location/room is marked as unavailable to others who try to schedule the location/room; likewise the users' schedules are marked as busy for day/time of that particular meeting.).

Conmy et al. does not expressly disclose that the people using the scheduling system are real estate agents or buyers and sellers of real estate, nor does Conmy et al. expressly disclose that the other rooms/locations being scheduled are real estate properties. That the users of the system are real estate related individuals and the locations are real estate property is irrelevant since the intended field of use does not change the overall functionality of the system. The intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Additionally, Bisdikian

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et al. discloses that at the time of the invention, it was old and well known for real estate agents, buyers and sellers to schedule a meeting at the location of a real estate property, where the scheduling system automatically evaluates the schedules of all parties and determines a suitable time (col. 4, lines 31-43; col. 5, lines 25-30 and 37-53). Thus, at the time of the invention, it would have been obvious for a person of ordinary skill in the art to use the system of Conmy et al. to schedule meeting times between real estate agents, buyers and sellers at a real estate property since Conmy et al. can schedule meetings between disparate parties by automatically determining a suitable time based on everyone's availability, including that of a particular room/location, and since Bisdikian et al. shows that at the time of the invention performing such scheduling between people and places was a well known and desired activity in the art of real estate.

As per claim 13, Conmy et al. discloses the data management system of claim 12, wherein:

seller's agent unavailable time is designated either showing the property, showing different property, performing other business, or having personal time (col. 8, lines 8-47; Figures 5-9; The scheduling system displays different indications for users' times including indications of free time, busy time, OK, conflict, or other.).

As per claim 14, Conmy et al. discloses a data management system for scheduling the showing of real estate property for the purpose of facilitating a real estate property transaction involving a buyer, a buyer's agent, a seller and a seller's agent, comprising:

a computer useable medium having computer readable program means embodied in said medium for causing the recording of property unavailable times periods where the seller has selected a real estate property to be unavailable (col. 4, lines 56-67; col. 5, lines 45-54; col. 6, lines 29-33 and 55-65; The system can record information relating to the availability of people as well as other resources such as rooms.);

computer readable program means for causing the recording of seller's agent unavailable time periods upon entry by seller's agent (col. 4, lines 56-67; col. 5, lines 45-54; col. 6, lines 29-33 and 55-65; The system can record information relating to the availability of people as well as other resources such as rooms.);

computer readable program means for causing the comparing of the property unavailable time periods with the seller's agent unavailable time periods and marking the periods neither the property nor the seller's agent is unavailable as property available time periods (col. 8, lines 17-23 and 31-33; The system can display the various types of times for users including busy and free times.);

computer readable program means for causing the display of information identifying the property, said information including the property available time periods (col. 8, lines 17-23 and 31-33; The system can display the various types of times for users including busy and free times.);

computer readable program means for causing the displaying buyer's agent unavailable time periods and buyer's agent available time periods on the same display

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that includes property available time periods (col. 8, lines 17-23 and 31-33; The system can display the various types of times for users including busy and free times.);

computer readable program means in response to the selection of a desired time period for a showing of the property from the time periods marked as both a property available time periods and a buyer's agent available time period, the performing the following steps:

sending a message to seller's agent indicating the desired time period with a designation of a confirmation mode, sending a message to buyer's agent indicating the desired time period with a designation of a confirmation mode (col. 5, lines 57-63; col. 9, lines 11-34 and 49-55; A meeting coordinator can email invites to other users for a meeting including a particular time, date and location. Users can confirm or deny meeting.); and

under the control of a seller's agent system, directing a confirmation of showing communication be sent to buyer, marking the property as unavailable for the desired time period, marking seller's agent's schedule as seller's agent unavailable due to showing, and marking buyer's agent's schedule as buyer's agent unavailable due to showing (col. 9, lines 23-34; Users can accept or decline a meeting invitation from a meeting coordinator. If all the users accept the invitation, the location/room is marked as unavailable to others who try to schedule the location/room;

likewise the users' schedules are marked as busy for day/time of that particular meeting.).

Conmy et al. does not expressly disclose that the people using the scheduling system are real estate agents or buyers and sellers of real estate, nor does Conmy et al. expressly disclose that the other rooms/locations being scheduled are real estate properties. That the users of the system are real estate related individuals and the locations are real estate property is irrelevant since the intended field of use does not change the overall functionality of the system. The intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Additionally, Bisdikian et al. discloses that at the time of the invention, it was old and well known for real estate agents, buyers and sellers to schedule a meeting at the location of a real estate property, where the scheduling system automatically evaluates the schedules of all parties and determines a suitable time (col. 4, lines 31-43; col. 5, lines 25-30 and 37-53). Thus, at the time of the invention, it would have been obvious for a person of ordinary skill in the art to use the system of Conmy et al. to schedule meeting times between real estate agents, buyers and sellers at a real estate property since Conmy et al. can schedule meetings between disparate parties by automatically determining a suitable time based on everyone's availability, including that of a particular room/location, and since Bisdikian et al. shows that at the time of the invention performing such scheduling between people and places was a well known and desired activity in the art of real estate.

Conmy et al. also does not expressly disclose recording of a buyer response to a query as to whether buyer has a buyer's agent, and receiving an affirmative response that buyer has a buyer's agent. However, Conmy et al. does disclose allowing a user to indicate a substitute attendee in their place (col. 9, lines 27-28). Bisdikian et al. discloses allowing users to indicate identities of other users that should also be notified of meetings (col. 4, lines 31-43). It is old and well known in the art of real estate for buyers/sellers to have representatives also known as agents, which are required to be at certain meetings with the buyers/sellers. Thus, at the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of Conmy et al. to allow a user to indicate that he/she has an agent since doing so is well known in the art of real estate and since Conmy et al. already has the functionality of allowing a user to indicate the identity of someone else to attend the meeting (i.e., a substitute).

Claims 15-33 recite substantially similar limitations as claims 12-14 above. Therefore, claims 15-33 are rejected on the same basis as claims 12-14 above.

Allowable Subject Matter

7. Claim 29 is allowed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Fraser (U.S. 5,664,115) discusses an interactive computer system to match buyers and sellers of real estate;
- Cree et al. (U.S. 4,866,611) discusses automatically reconciling independently maintained electronic calendars;
- Dunlap, David. "Listings on the Internet : An Ever-Widening Web," *New York Times*, Aug 20, 1995 [retrieved from Proquest] discusses real estate listings on the Internet;
- "Consumers Can Now Access More Than 80 Percent of All California Property Listings on One Web Site," PR Newswire, November 12, 1996 [retrieved from Dialog] discusses property listings on the Internet; and
- Archived version of www.realtor.com, 1997 [retrieved from archive.org] discusses home listings on the Internet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 703-605-4251. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 703-305-9643.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

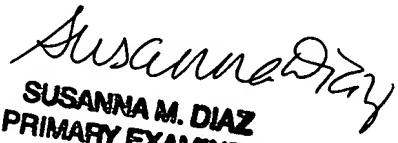
703-872-9306 [Official Communications; including After Final
communications labeled "Box AF"]

703-746-7202 [For status inquiries, draft communication, labeled
"Proposed" or "Draft"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA 7th floor receptionist.


gmc

November 23, 2004


SUSANNA M. DIAZ
PRIMARY EXAMINER
AU 3623